

EXHIBIT 446

Highly Confidential - Subject to Further Confidentiality Review

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UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

- - -

IN RE: NATIONAL	:	
PRESCRIPTION	:	MDL No. 2804
OPIATE LITIGATION	:	
<hr/>		Case No.
		1:17-MD-2804
THIS DOCUMENT RELATES	:	
TO ALL CASES	:	Hon. Dan A. Polster

- - -

Thursday, December 6, 2018

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Videotaped deposition of JASON BRISCOE, held
at the offices of Cavitch, Familo & Durkin,
1300 East Ninth Street, Cleveland, Ohio, commencing at
9:05 a.m., on the above date, before Carol A. Kirk,
Registered Merit Reporter and Notary Public.

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<p style="text-align: right;">Page 38</p> <p>1 BY MR. MOUGEY:</p> <p>2 Q. I'll hand you what I've marked as</p> <p>3 Briscoe 5. I'll hand that to you for now.</p> <p>4 A. Thank you.</p> <p>5 Q. There's an additional exhibit</p> <p>6 sticker on this from another depo, so I just</p> <p>7 crossed that out and wrote 5 on there, okay?</p> <p>8 A. Okay.</p> <p>9 MR. JOHNSON: We can mark it</p> <p>10 ourselves.</p> <p>11 MR. MOUGEY: Okay. I just didn't</p> <p>12 want you to get confused with the 6 on</p> <p>13 there.</p> <p>14 BY MR. MOUGEY:</p> <p>15 Q. So Briscoe 5 is a copy of the</p> <p>16 Controlled Substances Act, which -- do you have</p> <p>17 an understanding that that bill originated, as</p> <p>18 on page 2, in 1970 --</p> <p>19 A. Okay.</p> <p>20 Q. -- right in the middle of the</p> <p>21 page.</p> <p>22 Do you see that?</p> <p>23 A. Yes.</p> <p>24 Q. All right. And I'd like to walk</p>	<p style="text-align: right;">Page 40</p> <p>1 MR. JOHNSON: Out loud.</p> <p>2 A. Yes.</p> <p>3 Q. Thanks. It's hard.</p> <p>4 And, sir, if you would turn to</p> <p>5 page 8, which -- upper right-hand corner.</p> <p>6 A. Here (indicating)?</p> <p>7 Q. Yes. Second full paragraph that</p> <p>8 begins with "The bill." There you go.</p> <p>9 "The bill is designed to improve</p> <p>10 the administration and regulation of the</p> <p>11 manufacturing, distribution, and dispensing of</p> <p>12 controlled substances by providing for a closed</p> <p>13 system of drug distribution for legitimate</p> <p>14 handlers of such drugs. Such a closed system</p> <p>15 should significantly reduce the widespread</p> <p>16 diversion of the drugs out of legitimate</p> <p>17 channels into the illicit market, while at the</p> <p>18 same time providing the legitimate drug industry</p> <p>19 with a unified approach to narcotic and</p> <p>20 dangerous drug control."</p> <p>21 A. Okay.</p> <p>22 Q. Let's start with just helping me</p> <p>23 understand what you believe some of these terms</p> <p>24 mean. So let's walk through the first three</p>
<p style="text-align: right;">Page 39</p> <p>1 you through a couple of -- of pieces of this --</p> <p>2 of the Controlled Substances Act. And if you</p> <p>3 would please turn to -- there's numbers at the</p> <p>4 very top of the page in addition -- in addition</p> <p>5 to the Bates numbers at the bottom.</p> <p>6 On the top of the page, upper</p> <p>7 right-hand corner, Number 5.</p> <p>8 A. The number trailing MCK --</p> <p>9 Q. Yes, sir, exactly.</p> <p>10 A. Okay. Thank you.</p> <p>11 Q. Thank you.</p> <p>12 Under Title II: Control and</p> <p>13 Enforcement.</p> <p>14 Do you see that?</p> <p>15 A. Yes.</p> <p>16 Q. All right. "The bill provides for</p> <p>17 control by the Justice Department of problems</p> <p>18 related to drug abuse through registration of</p> <p>19 manufacturers, wholesalers, retailers, and all</p> <p>20 others in the legitimate distribution chain, and</p> <p>21 makes transactions outside the legitimate</p> <p>22 distribution chain illegal."</p> <p>23 Do you see that, sir?</p> <p>24 A. Mm-hmm.</p>	<p style="text-align: right;">Page 41</p> <p>1 words in the second sentence, manufacturing and</p> <p>2 distribution and dispensing, okay?</p> <p>3 Explain to me what you understand</p> <p>4 a manufacturer, a distributor and dispensing is</p> <p>5 under the controlled system -- under the closed</p> <p>6 system. I'm sorry.</p> <p>7 A. Okay. Manufacturing would be</p> <p>8 groups, entities responsible for bringing --</p> <p>9 manufacturing, producing, bringing products to</p> <p>10 market that are approved by the FDA and the DEA</p> <p>11 with their specific schedule to be distributed,</p> <p>12 whether that be by wholesalers or an entity like</p> <p>13 ourselves, down to retail pharmacy or other</p> <p>14 dispensing locations.</p> <p>15 Q. Now, DDM, in addition to</p> <p>16 distributing to itself, also used third parties</p> <p>17 on occasion for Schedule III, IV and V, correct?</p> <p>18 A. So when you speak of DDM utilizing</p> <p>19 other sources, you mean our retail locations</p> <p>20 procuring product?</p> <p>21 Q. Yes, sir. From -- when I say</p> <p>22 "product," I'm referring to Schedule -- Schedule</p> <p>23 III, IV, V, specifically here hydrocodone, okay?</p> <p>24 So hydrocodone up until 2014,</p>

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<p style="text-align: right;">Page 42</p> <p>1 Schedule III, correct?</p> <p>2 A. Yes.</p> <p>3 Q. All right. For hydrocodone DDM</p> <p>4 also secured the pills, whatever you want to</p> <p>5 call them, from other distributors other than</p> <p>6 the 211 Commerce -- the distribution center from</p> <p>7 DDM, correct?</p> <p>8 A. Yes.</p> <p>9 Q. For example, you all had</p> <p>10 agreements with Cardinal, correct?</p> <p>11 A. Correct.</p> <p>12 Q. You had agreements with PSI,</p> <p>13 correct?</p> <p>14 A. Do you know the --</p> <p>15 Q. I'm not trying to memory test.</p> <p>16 Just other vendors or other --</p> <p>17 A. And McKesson, yes.</p> <p>18 Q. All right. Now, you understand</p> <p>19 the difference between Schedule II and</p> <p>20 Schedule III under the Controlled Substances</p> <p>21 Act, correct?</p> <p>22 A. Yes.</p> <p>23 Q. Explain to me what your</p> <p>24 understanding of the difference between</p>	<p style="text-align: right;">Page 44</p> <p>1 potential for Schedule II was -- was higher</p> <p>2 than, say, for instance, Schedule Vs, correct?</p> <p>3 A. Generally speaking, yes.</p> <p>4 Q. And Schedule II, DDM used other</p> <p>5 distributors in its procurement of those --</p> <p>6 those Schedule IIs to dispense to its patients,</p> <p>7 correct, sir?</p> <p>8 A. True statement. While IIIs</p> <p>9 through Vs, you know, we would have distributed</p> <p>10 to our stores. But also our stores would have</p> <p>11 had the ability to procure III through Vs from</p> <p>12 other means, as you provided the example of</p> <p>13 Cardinal.</p> <p>14 It is only true that we would have</p> <p>15 procured Schedule IIs from the beginning of</p> <p>16 Discount Drug Mart's existence from entities</p> <p>17 outside of our own distribution center.</p> <p>18 Q. Okay. Let's go back to page 8 of</p> <p>19 Briscoe 5 and the reference to a closed system.</p> <p>20 What's your understanding of a</p> <p>21 closed system under the Controlled Substances</p> <p>22 Act?</p> <p>23 A. My understanding would be that</p> <p>24 from start to finish, there is recordkeeping</p>
<p style="text-align: right;">Page 43</p> <p>1 Schedule II and Schedule III is.</p> <p>2 A. The difference between Schedule II</p> <p>3 and Schedule III would be correlated to abuse</p> <p>4 potential or safety issues, whether it's the --</p> <p>5 the FDA and DEA determining -- or the DEA</p> <p>6 determining what schedule that medication</p> <p>7 belongs in. And that could be a fluid process,</p> <p>8 as we've learned over the years.</p> <p>9 But Schedule IIs compared to III,</p> <p>10 IVs and V need to be handled in a different</p> <p>11 manner within the closed system, in the manner</p> <p>12 by which you order them, in the manner by which</p> <p>13 you receive them, in the manner by which you</p> <p>14 keep records, in the manner by which you</p> <p>15 dispense them.</p> <p>16 And the same goes for III through</p> <p>17 Vs, compared to a nonscheduled medication, in</p> <p>18 that if you think of it as in three buckets,</p> <p>19 each in our closed system have their own pathway</p> <p>20 that needs to be handled in a separate specific</p> <p>21 manner.</p> <p>22 Q. So I like the description that you</p> <p>23 used, the abuse potential, meaning that</p> <p>24 Schedule II and Schedule III, the abuse</p>	<p style="text-align: right;">Page 45</p> <p>1 and -- there's security measures along the way.</p> <p>2 There's recordkeeping along the way, so that at</p> <p>3 any part of the manufacturing, distribution,</p> <p>4 dispensing of that product, you would be able to</p> <p>5 point to every step of the way.</p> <p>6 Q. Meaning that every -- every pill</p> <p>7 under the closed system under the CSA from</p> <p>8 manufacturer to a relabeler, wholesaler, or</p> <p>9 distributor to the pharmacy is tracked and</p> <p>10 monitored, correct?</p> <p>11 A. I wouldn't commit to saying every</p> <p>12 pill. I would -- I would -- for example, if</p> <p>13 there was -- that would be tough for me to say</p> <p>14 that that would happen 100 percent of the time.</p> <p>15 Q. That is the goal or objective, is</p> <p>16 that every pill is tracked from manufacturer to</p> <p>17 distributor, wholesaler to --</p> <p>18 A. Sure.</p> <p>19 Q. -- the --</p> <p>20 A. Sure.</p> <p>21 Q. -- pharmacy, correct?</p> <p>22 And in order to be a participant</p> <p>23 in manufacturer, distributor, wholesaler and</p> <p>24 pharmacy, that entity has to be registered with</p>